

3. Plaintiff has exhausted all administrative remedies provided for the parties' collective bargaining agreement and has timely filed this suit after Plaintiff received notice of the breach of duties owed under the collective bargaining agreement by USPS, and APWU and LOCAL 7011 after receipt of notice of not receiving fair representation by his Union.

VENUE AND THE PARTIES

4. Plaintiff resides at 1906 S. Ridgeland Avenue, Berwyn, Illinois 60402.
5. Plaintiff is a citizen and resident of Cook County, Illinois.
6. At all times relevant, John E. Potter served in the capacity of Postmaster General of the United States Postal Service.
7. Defendant Local APWU No. 7011 is a labor organization of which the Plaintiff at all relevant times, was a member in good standing.
8. Defendant Local APWU No. 7011 is a not-for-profit corporation in Illinois with its principle place of business located in Cook County, Illinois.
9. Defendant APWU is the parent organization of Local APWU No. 7011 and has a responsibility to protect the rights of its local members.
10. At all times relevant herein, Defendant USPS and Defendants APWU and Local APWU No. 7011 were parties to a written collective agreement, entitled "Agreement between American Postal Workers Union, AFL-CIO and U.S. Postal Service" hereinafter referred to as "Collective Agreement."
11. At all times relevant herein, the Collective Agreement governed the terms and conditions of Plaintiffs employment with Defendant USPS.

AS AND FOR A FIRST CAUSE OF ACTION

DEFENDANT USPS' BREACH OF COLLECTIVE AGREEMENT

12. Paragraphs I through 11 are incorporated herein by reference.
13. Plaintiff began his employment with Defendant USPS in July of 1990..
14. At all times relevant herein, Plaintiff was employed by Defendant USPS at the Castleton, Indiana branch location as a full time employee in the registry department performing duties associated with the clerk mail that is registered and insured.
15. On or about March 3, 2006, Defendant breached the Collective Agreement when it summarily terminated Plaintiff's employment, without just cause, in violation of the Collective Agreement and, at all times since that date. Further, justification to terminate Plaintiff came from inaccurate dates (See Exhibits A & B) from violation of a Last Chance Agreement between USPS, the Union, and the Plaintiff which dates were contrary to the evidence presented by Plaintiff. Defendant USPS has refused to reinstate Plaintiff to his former position of employment.
16. As a direct and proximate result of the breach of the Collective Agreement by Defendant USPS Plaintiff has been damaged by loss of his employment in a sum which she would have earned from such employment had Defendant USPS not wrongfully terminated Plaintiff; additionally, Plaintiff has been damaged by loss of seniority, loss of fringe benefits, loss of other benefits to which he was entitled under the Collective Agreement, physical hardship, and severe and continuous emotional distress.

WHEREFORE Plaintiff GERALD A. BERRY, by counsel, respectfully prays the Court to advance this case on the docket and expedite it in every way to issue a judgment that Defendant USPS' acts, policies, practices, and procedures complained of herein violated Plaintiffs rights under Section 301 of the Labor Management Relations Act; to award Plaintiff back pay, future pay, compensatory relief in the form of emotional pain, suffering, inconvenience, mental anguish, and lose of enjoyment of life and consequential

damages to make him whole; to enjoin Defendants from the same discriminatory conduct in the future; to grant Plaintiff the costs of this action and attorney fees; to grant Plaintiff a jury trial on those issues triable by jury; and to allow such additional relief as the Court deems just and proper.

AS AND FOR A SECOND CAUSE OF ACTION

BREACH OF DUTY OF FAIR REPRESENTATION BY DEFENDANTS
APWU AND LOCAL 7011

17. Plaintiff incorporates paragraphs I through 16 herein by reference.
18. At all times material herein, Defendants APWU and Local APWU No. 7011 owed a duty of fair representation to all members of APWU Local No. 7011, including the Plaintiff, i.e. the duty to represent Plaintiff and all other members of APWU in the administration of the Collective Agreement without arbitrary discrimination.
19. APWU Local No. 7011 breached its duty of fair representation when the National Business Agent for APWU entered into an Agreement to Withdraw Plaintiff's Grievance on September 20, 2006 without his knowledge and to his detriment after receipt of evidence to the unions various officials of a complete defense to Plaintiff's Removal process. Plaintiff had no knowledge of said withdrawal of his grievance until he received a letter on May 12, 2007, from APWU dated May 10, 2007. (See Exhibit "A" and "B")
20. Defendants APWU and Local APWU No. 7011 breached their duty of fair representation as follows:
 - a) On or about November 10, 2004, APWU No. 7011 and USPS reached an agreement that would allow Plaintiff to remain employed under a Last Chance Agreement ("Agreement") which Plaintiff was required to sign so as to maintain employment with USPS. APWU allowed the Agreement, (which is part of the

current issues with APWU). The most important part, among other things, was that APWU was allowing, as part of the verbiage under paragraph 3, that Plaintiff could violate the provision of the agreement, even if Plaintiff had emergency leave requirements. See Exhibit C.

- b) On or before October 31, 2005, due to circumstances beyond Plaintiff's control, Plaintiff was scheduled to spend 5 days in County jail. Prior to that date of incarceration, Plaintiff with his union steward did approach Plaintiff's Plant Manager to request mandatory time off because plaintiff was under a court order to turn himself in for a mandatory jail sentence. After meeting with the union steward and Plant Manager for USPS, the Plant Manager denied Plaintiff's request for mandatory time off. Plaintiff therefore, in order to comply with the court order of incarceration, had to take time off without approval, otherwise he would face being picked up by the Sheriff's Office. Upon leaving the meeting Plaintiff requested his steward to take action since this would violate Plaintiff's Last Chance Agreement, wherein, Patrick Parks, Plaintiff's union steward, indicated there was nothing he could do to protect Plaintiff. Plaintiff informed his union steward that he (Plaintiff) believed he was being discriminated against because of his color (African-American) and wanted to file a complaint with the EEO, for which the union steward told Plaintiff not to do that because it could make things worse for himself (Plaintiff). At no time after this meeting with the Plant Manager, the union steward and Plaintiff, did the union attempt to protect Plaintiff from the unfair, unreasonable and discriminatory action of the Plant Manager for the USPS.

- c) That on the 11th day of January, 2006, Plaintiff was issued a removal notice by the USPS for violating a Last Chance Settlement Agreement stating that Plaintiff had violated the Last Chance Agreement because of unscheduled absences on:

- 1) 08-27-08-31-05
- 2) 12-26-05
- 3) 01-02-06
- 4) 01-09-06

See Exhibit D.

- d) Plaintiff contacted union steward and presented the union steward with evidence, including time clock records, payroll records, and dispatch data, showing that on 1) 08-27-05 through 08-31-05, Plaintiff did for work on August 29, 2005, wherein he swiped his card for Registered Mail Dispatch Bill (See group Exhibit E; 2) 12-26-06, Plaintiff worked and was paid for said day (See Exhibit F; Plaintiff's paycheck stub); 3) 01-02-06, Plaintiff worked on said day and swiped and had his records of swipes for that day and other which appeared on a Report (See Group Exhibit G; History Report 12/31/05 to 01/3/06); 01/09/06, Plaintiff called in sick and had an approved day. After receipt and review of Exhibit D, Plaintiff took action and filed grievances for the wrongful issuance of a Removal. Plaintiff presented all the information and evidence to support the wrongful removal.
- e) After Plaintiff challenged the wrongful issuance of the Removal (Exhibit D), the Union allowed USPS to issue another Removal wherein the dated where changed as follows:

10-31-05 to 11-04-05

01-02-06
01-09-06

(Exhibit H)

- f) Plaintiff again contacted his union steward to challenge these wrongful assertions. Plaintiff called upon his steward to grieve these dates as having already responded with evidence to support the wrongful assertions for the dates of 01-02-06 and 01-09. Further, Plaintiff reminded his union steward of Plaintiff's required jail sentence for a DUI which caused his incarceration 10-31-05 through 11-04-05, as a court mandated jail sentence.
- g) Thereinafter, all issues went through the appropriate grievance procedures until, the scheduling of an Appeal to Arbitration was scheduled June 27, 2006. Thereafter, even though Plaintiff had presented evidence to support the wrongful Removal procedure, on September 20, 2006 a settlement and an agreement to withdraw the arbitration was agreed to between the Union and USPS such agreement being entered into a withdrawal of Plaintiff's grievance without the consent or knowledge of Plaintiff;

21. Defendants APWU and Local APWU No. 7011 violated Members' Bill of Rights by breaching its statutory duty of fair representation after Union Stewart Zachery Lucas to filed grievances for the Plaintiff at his request.

22. In bad faith and without just cause APWU and Local APUM No. 7011 disregarded all the proper evidence presented to defeat the false allegations contained in both Notice of Removal issued by the USPS. Further, Defendants APWU and Local APWU No. 7011 of the Union and it's agents in terminating the arbitration procedure without Plaintiff's knowledge and for treatment of the Plaintiff was capricious, arbitrary, and discriminatory

and failed to properly represent Plaintiff.

23. As a direct and proximate result of the breach by Defendants APWU and Local APWU No. 7011, of their duty of fair representation to Plaintiff, as herein alleged, Plaintiff has been damaged due to his termination by Defendant USPS in a sum which he would have earned from such employment had Defendant USPS not wrongfully terminated Plaintiff; additionally, Plaintiff has been damaged by loss of his seniority, loss of fringe benefits, loss of other benefits to which he was entitled under the Collective Agreement, physical hardship, and severe and continuous emotional distress.

WHEREFORE Plaintiff, GERALD A. BERRY, by counsel, respectfully prays the Court to advance this case on the docket and expedite it in every way to issue a judgment that Defendants APWU and Local APWU No. 7011 acts, policies, practices, and procedures complained of herein violated Plaintiffs rights under Section 301 of the Labor Management Relations Act; to award Plaintiff back pay, future pay, compensatory relief in the form of emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, and consequential damages to make him whole; to enjoin Defendants from the same discriminatory conduct in the future; to grant Plaintiff the costs of this action and attorney fees; to grant Plaintiff a jury trial on those issues triable by jury; and to allow such additional relief as the Court deems just and proper.

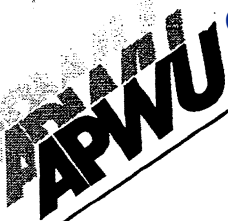
GERALD A. BERRY

BY: 

Michael T. Smith
Trial Attorney

Michael T. Smith #
440 W. Irving Park Road
Roselle, IL 60172
(847) 895-0626

Gary Abrams
55 W. Monroe
12th Floor
Chicago, IL 60603



American Postal Workers Union, AFL-CIO

John R. Clark
Percy Harrison, Jr.
Lynn Pallas-Barber
National Business Agents
330 S. Wells St. Suite 810
Chicago, IL 60606
(312) 663-0975 (office)
(312) 663-3181 (fax)

National Executive Board

William Burrus
President

Cliff "C. J." Guffey
Executive Vice President

Terry Stapleton
Secretary-Treasurer

Greg Bell
Industrial Relations Director

James "Jim" McCarthy
Director, Clerk Division

Steven G. "Steve" Raymer
Director, Maintenance Division

Robert C. "Bob" Pritchard
Director, MVS Division

Sharyn M. Stone
Central Region Coordinator

Jim Burke
Eastern Region Coordinator

Elizabeth "Liz" Powell
Northeast Region Coordinator

William "Bill" Sullivan
Southern Region Coordinator

Omar M. Gonzalez
Western Region Coordinator

May 10, 2007

Mr. Gerald A. Berry
1906 S. Ridgeland Ave.
Berwyn, IL 60402

Re: Case # J00C1JD06075560, Local # JMAMC06011, BA# 66678

Dear Mr. Berry:

This is in response to your letter dated 05/06/07. It is noted that no documents were attached to your letter. Pursuant to your request, attached you will find a copy of the moving papers for the above referenced grievance, including:

1. Notice of Removal (Last Chance Agreement) dated 11/10/04
2. Notice of Removal dated 1/18/06
3. Step 2 Grievance Appeal Form dated 2/07/06
4. Step 2 Decision dated 3/14/06
5. Step 3 Grievance Appeal Form dated 3/21/06
6. Step 2 Appeal to Arbitration Grievance Form dated 3/21/06
7. Arbitration scheduling letter dated 6/27/06
8. Local Certification-Direct Appeal letter dated 9/8/06
9. Settlement/withdrawal agreement dated 9/20/06

If you have any questions about this matter you can contact me at tel. # 312-663-0975.

Wishing you the best of luck in your future endeavors,

Sincerely,

A handwritten signature in cursive script, appearing to read "JRC", is written over the typed name of John R. Clark.

John R. Clark
National Business Agent, APWU

Attachments

cc: V. Fleming
file

JRC/pf

EXHIBIT A

PRE-ARBITRATION SETTLEMENT

Regional No.: J00C-1J-D-06075560

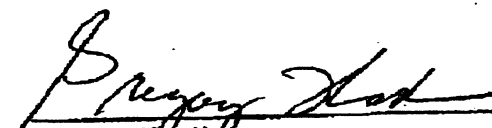
NBA No.: 66678

Local No.: JM-AMC-06-011

Grievant: Gerald Berry

Location: AMC O'Hare


~~As a final and complete settlement of the above referenced grievance and without prejudice to the position of either party in any other case the above referenced grievance has been resolved on the basis that the Union withdraws this case from the grievance/arbitration procedure.~~



Gregory Thadison
United States Postal Service

Date

9/20/06



John R. Clark
American Postal Workers Union, AFL-CIO

Date

9/20/06

EXH. b. T B



Date: NOVEMBER 10, 2004

SUBJECT: NOTICE OF REMOVAL (LAST CHANCE AGREEMENT)

TO: GERALD A. BERRY
FULL-TIME REGULAR CLERK

SSN: 334-62-1669
P/L: 114

On Monday, November 8, 2004, Gerald Berry, and Plant Manager, Gerald Kubick, met to discuss the status of his Notice of Removal dated November 3, 2004, for **Failure to Maintain a Regular Attendance Record.**

The Notice of Removal will be reduced to a Long Term Suspension, time served; no back pay.

You have agreed to the following stipulations:

1. I agree to meet with EAP and follow any and all recommendations made by EAP. The EAP appointment must be made within Seven (7) days after signing this agreement.
2. I agree to sit down with MDO, Olivia Martinez, every 30 days to discuss my job responsibilities and to discuss the status of my attendance and job performance.
3. I agree to maintain satisfactory attendance during the terms of this agreement. "Satisfactory attendance" for the purpose of this agreement is defined as "no more than three(3) unscheduled absences during any six (6) month period of this agreement." ~~That also means no instances of AWOL.~~ Unscheduled absences are defined for the purpose of this agreement as "any absence not scheduled and approved in advance of the employee's scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency, annual, or sick leave), leave without pay (LWOP), and failure to report/remain as scheduled for overtime work or holiday work."
4. I agree that future performance deficiencies, including but not limited to, leaving my duty station or not performing my assigned duties will be grounds for removal. Further, I agree that any instances of being absent from my assignment without permission, any instance for failure to follow instructions, or any AWOL, will constitute violation of this settlement agreement and will be grounds for removal.
5. I agree to meet all terms and conditions listed in this agreement for a period of two (2) years from the date of the signing of this agreement.

Exhibit C

- 2 -

6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement agreement constitutes an absolute **last chance** to remedy any **conduct** and **attendance problems**.
7. There will be no compensation as a result of this settlement.

I Gerald Berry, have read and understood the conditions and restrictions set forth in this settlement agreement. I am mentally and physically fit so as to be able to understand this agreement in it's entirety. I freely sign this agreement without reservation, duress, or coercion on the part of anyone. I agree to abide by the terms of this agreement.

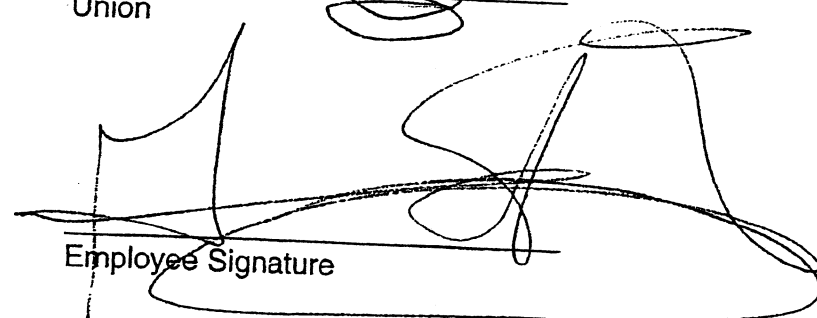
I agree to voluntarily withdraw any outstanding complaints or appeals, and to request that any grievances be withdrawn. It is understood that this settlement is contingent upon those complaints, appeals, or grievances being withdrawn.


Management

11/13/04
Date


Union

11/18/04
Date


Employee Signature

11/18/04
Date



NON - VETERAN PREFERENCE ELIGIBILITY

January 11, 2006

SUBJECT: NOTICE OF REMOVAL

TO: Gerald A. Berry
F.T. Regular Clerk

SSN: 334 62 1669
Pay Location 114

You are hereby given not less than thirty (30) days advance written notice of your removal from the Postal Service. The reason (s) for this removal action are:

You are charged with **Violating the Last Chance Settlement signed by you on November 18, 2004**, as evidenced by your unscheduled absences on:

01-09-06	8.00hrs. A/L
01-02-06	8.00hrs. AWOL
12-26-05	8.00hrs. AWOL
08-27-05 – 08-31-05	40.00hrs. A/L

In addition as outlined below, you violated the Last Chance Removal Settlement stipulations.

3. You agreed to maintain satisfactory attendance during the term of this agreement. "Satisfactory attendance" for the purposes of this agreement is defined as no more than three (3) unscheduled absences during any six (6) month period of this agreement. That also means no instances of AWOL. Unscheduled absences are defined for the purposes of this agreement as "any absence not scheduled and approved in advance of your scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency annual or sick leave), leave without pay (LWOP) and failure to report/remain as scheduled for overtime work or holiday work."
5. You agree to meet all terms and conditions listed in this settlement for a period of two (2) years from the signing of this settlement.
6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement-agreement constitutes a **Last Chance** for you to correct your attendance problems.

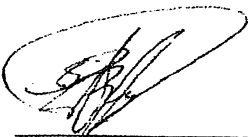
EXHIBIT D

The following elements of your past record have been reviewed in taking this action:

- 04-23-04 Fourteen (14) day Suspension for Failure to Maintain a Regular Attendance Record.
- 11-05-03 Fourteen (14) day Suspension for Conduct Unbecoming.
- 11-21-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.
- 01-24-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.
- 01-24-01 Letter of Warning for Failure to Maintain a Regular Attendance Record.

You have the right to file a grievance under the Grievance -Arbitration procedure set forth in Article 15, Section 2 of the National Agreement within 14 days of your receipt of this notice.

If this action is overturned on appeal, back pay will be allowed, unless otherwise specified in the appropriate award or decision, **ONLY IF YOU HAVE MADE REASONABLE EFFORTS TO OBTAIN OTHER EMPLOYMENT DURING THE RELEVANT NON-WORK PERIOD.** The extent of documentation necessary to support your back pay claim is explained in the ELM, Section 436 (copy attached).



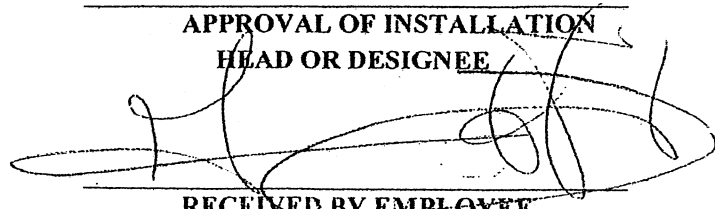
SIGNATURE OF SUPERVISOR

Edwin Muniz

Supervisor Distribution Operations
Tour 1 Leave Control



APPROVAL OF INSTALLATION
HEAD OR DESIGNEE



RECEIVED BY EMPLOYEE

DATE 1/10/06 TIME _____



Rotary Lock/Seal No: **S280127-0042** Jacket No:
Bill No: Page No: **1 of 1** Airmail:
Control No: Bulk Count: **0** Wgt.:
To: **LOS ANGELES P&DC-90052-9998**
(Post Office)

REGISTERS

Postmark of
OHARE AMC
08/29/2005
Dispatching Office
Postmark of
OHARE AMC
08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 RB886682172US	40253 LAX	2 \$79272839	43218 LAX
3 \$79449176	14692 LAX	4 \$78578027	13220 LAX
5 \$78577982	13220 LAX	6 \$79449180	14692 LAX
7 \$43105415	40231 LAX	8 \$43105411	40231 LAX
9 \$76934070	60607 LAX		

Bill No.

A.M. Rte. & Fil. No.

Jacket No.

S280127-0042

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

total of 9 articles sent by this dispatch	POSTMASTER	(Printed by: G. Berry)	Dispatching Clerk	Postmark of	Postmark of
	POSTMASTER			Receiving Office	Receiving Office
total of articles received by this dispatch			Receiving Clerk		

S Form 3854-A, November 1993
Printed 08/29/2005 5:40 am

Dispatch Site: OHARE AMC



300179.000062

Form ID: 300179.000062
Printed: 08/29/2005 5:40 am

EXHIBIT GROUPE



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282

Document 23 Filed 03/27/2008

Page 16 of 28

Registered Mail Dispatch Bill

Con-Con Container

EXHIBIT F2

Rotary Lock/Seal No: **S312021-0023** Jacket No:
Bill No: Page No: **1 of 1** Airmail:
Control No: Bulk Count: **0** Wgt.:
To: **LOS ANGELES P&DC-90052-9998**
(Post Office)

REGISTERS

Postmark of
OHARE AMC

Postmark of
OHARE AMC

08/29/2005

08/29/2005

Dispatching Office

Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 ØRA944740535US	14830 LAX	2 ØR0450	DENMARK LAX
3 ØR0599	DENMARK LAX	4 ØRR713016768	SVERIGE LAX

Bill No.

A.M. Rte. & Fit. No.

Jacket No.

S312021-0023

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of **4** articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry)

Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk

PS Form 3854-A, November 1993

Printed 08/29/2005 4:48 am

Dispatch Site: OHARE AMC



300181.000062

Form ID: 300181.000062

Printed: 08/29/2005 4:48 am



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282

Document 23

FINAL GATE

Filed 03/27/2008

Page 17 of 28

EXHIBIT F2

Registered Mail Dispatch Bill

Rotary Lock/Seal No:

Jacket No:

Bill No:

Page No: 1 of 1

Airmail: UA Flight 109

Control No:

Bulk Count:

0

Wgt.: 320#

To:

LOS ANGELES P&DC-90052-9998

(Post Office)

REGISTERS

Postmark of
OHARE AMC

Postmark of
OHARE AMC

08/29/2005

08/29/2005

Dispatching Office

Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
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3 \$S312021-0023 45#	60666 LAX	4 \$S132093-0112 64#	60688 LAX

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 4 articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry)

Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk

PS Form 3854-A, November 1993

Printed 08/29/2005 5:41 am

Dispatch Site: OHARE AMC



300182.000062

Form ID: 300182.000062

Printed: 08/29/2005 5:41 am



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282

Document 23 Filed 03/27/2008

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EXHIBIT F2

Registered Mail Dispatch Bill

Orange Nylon Pouch

Rotary Lock/Seal No: **72956899** Jacket No:
Bill No: Page No: **1 of 2** Airmail:
Control No: Bulk Count: **36** Wgt.:
To: **LOS ANGELES P&DC-90052-9998**
(Post Office)

REGISTERS

Postmark of
OHARE AMC

08/29/2005
Dispatching Office

Postmark of
OHARE AMC

08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
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3 RB986460845US		4 RB731097839US	
5 RT818736866CA		6 RT726900941CA	
7 RT659896028CA		8 RT670898808CA	
9 RT932716865CA		10 RT620843660CA	
11 RT859723235CA		12 RT860579266CA	
13 RT819047749CA		14 RT861037332CA	
15 RT483293671CA		16 RT930502487CA	
17 RT933079317CA		18 RT053770685CA	
19 RT860751542CA		20 RT819343684CA	
21 RT863781702CA		22 RT819343675CA	
23 RT863782107CA		24 RT821881259CA	
25 RT702304406CA		26 RT817759976CA	
27 RT820033702CA		28 RT932706148CA	
29 RT705829717CA		30 RT861225401CA	

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

72956899

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 69 articles sent by this dispatch	POSTMASTER (Printed by: G. Berry) Dispatching Clerk	Postmark of	Postmark of
A total of _____ articles received by this dispatch	POSTMASTER Receiving Clerk	Receiving Office	Receiving Office

PS Form 3854-A, November 1993

Printed 08/29/2005 3:55 am

Dispatch Site: OHARE AMC



300172.000062

Form ID: 300172.000062

Printed: 08/29/2005 3:55 am



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282

Document 23

Filed 03/27/2008

Page 19 of 28

Registered Mail Dispatch Bill

Con-Con Container

Rotary Lock/Seal No: S286732-0056

Jacket No:

Bill No: Page No: 1 of 1

Airmail:

Control No: Bulk Count: 0

Wgt.:

To: LOS ANGELES P&DC-90052-9998

(Post Office)

REGISTERS

Postmark of
OHARE AMC

Postmark of
OHARE AMC

08/29/2005

08/29/2005

Dispatching Office

Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1 \$70687567	60666 LAX	2 \$72956899	60666 LAX

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

S286732-0056

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 2 articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry)

Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Office

Receiving Office

Receiving Clerk

PS Form 3854-A, November 1993

Printed 08/29/2005 4:46 am



Dispatch Site: OHARE AMC

300180.000062

Form ID: 300180.000062

Printed: 08/29/2005 4:46 am



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282 Document 23 Filed 03/27/2008 Page 20 of 28
Registered Mail Dispatch Bill
Orange Nylon Pouch

Rotary Lock/Seal No: 70687567 Jacket No:
Bill No: Page No: 1 of 1 Airmail:
Control No: Bulk Count: 32 Wgt.:
To: LOS ANGELES P&DC-90052-9998
(Post Office)

REGISTERS

Postmark of
OHARE AMC

08/29/2005
Dispatching Office

Postmark of
OHARE AMC

08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
1	RB910276821US		

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

70687567

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 33 articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry)

Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Clerk

Receiving Office

Receiving Office

PS Form 3854-A, November 1993

Printed 08/29/2005 3:47 am

Dispatch Site: OHARE AMC



300171.000062

Form ID: 300171.000062

Printed: 08/29/2005 3:47 am



UNITED STATES
POSTAL SERVICE®

Case 1:07-cv-06282

Document 23

Filed 03/27/2008

Page 21 of 28

EXHIBIT F2

Registered Mail Dispatch Bill
Orange Nylon Pouch

Rotary Lock/Seal No: 72956899 Jacket No:
Bill No: Page No: 2 of 2 Airmail:
Control No: Bulk Count: 36 Wgt.:
To: LOS ANGELES P&DC-90052-9998
(Post Office)

REGISTERS

Postmark of
OHARE AMC
08/29/2005
Dispatching Office

Postmark of
OHARE AMC
08/29/2005
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
31 RT822127518CA		32 RT668304559CA	
33 RT864306245CA			

Bill No.

A.M. Rte. & Flt. No.

Jacket No.

72956899

Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 69 articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry) Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

Receiving Clerk

Receiving Office

Receiving Office

PS Form 3854-A, November 1993

Printed 08/29/2005 3:55 am

Dispatch Site: OHARE AMC



300172.000062

Form ID: 300172.000062

Printed: 08/29/2005 3:55 am

EXHIBIT F1

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EXHIBIT F

ALL ACCESS ATTEMPTS HISTORY REPORT

Selected Cardholders
between 12/31/2005 12:00:00AM and 1/3/2006 11:59:59PM

Access Attempts for 1/2/2006

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
11:01:04PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstyle South IN	49 - AMC-ALL EMPLOYEES	No
11:03:46PM	Valid Exit	Berry, Gerald A	16 - AMC Employee Entrance Turnstyle South OUT	49 - AMC-ALL EMPLOYEES	No
11:05:47PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstyle South IN	49 - AMC-ALL EMPLOYEES	No
11:13:33PM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
11:32:00PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:34:07PM	Access Denied - Anti-passback violation on entry attempt	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:34:26PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:37:52PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:39:31PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:41:27PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:46:07PM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
<u>Total for 1/2/2006: 11</u>					

Access Attempts for 1/3/2006

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
12:28:33AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
12:30:20AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
12:31:32AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
12:46:04AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
12:53:37AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
12:54:04AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
2:13:37AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
2:13:58AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
3:07:57AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
3:08:34AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
3:29:10AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
3:46:06AM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No

CANBIF

Access Attempts for 1/3/2006

<u>Time</u>	<u>Description</u>	<u>Cardholder Name</u>	<u>Device</u>	<u>Area</u>	<u>Deleted</u>
4:22:48AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
5:07:14AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
5:12:05AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
6:02:28AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
6:13:38AM	Valid Exit	Berry, Gerald A	23 - AMC Registry Cage N.W. IN	52 - AMC-REGISTRY	No
6:40:31AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
7:36:25AM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
9:16:41AM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
9:41:15AM	Valid Exit	Berry, Gerald A	40 - AMC Employee Entrance Turnstyle North OUT	49 - AMC-ALL EMPLOYEES	No
11:03:17PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstyle South IN	49 - AMC-ALL EMPLOYEES	No
11:05:13PM	Valid Exit	Berry, Gerald A	40 - AMC Employee Entrance Turnstyle North OUT	49 - AMC-ALL EMPLOYEES	No
11:09:22PM	Valid Entry	Berry, Gerald A	38 - AMC Employee Entrance Turnstyle South IN	49 - AMC-ALL EMPLOYEES	No
11:22:44PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:36:27PM	Valid Entry	Berry, Gerald A	341 - AMC Registry Cage N.W. Out	52 - AMC-REGISTRY	No
11:38:01PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:39:21PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:40:44PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
11:42:09PM	Valid Entry	Berry, Gerald A	342 - Registry Cage Near R & D Out	52 - AMC-REGISTRY	No
11:46:30PM	Valid Exit	Berry, Gerald A	25 - AMC Registry Near R & D IN	52 - AMC-REGISTRY	No
<u>Total for 1/3/2006: 31</u>					

Total Access Attempts Reported: 42

As of 12/14/2006 11:26:01AM

All Access Attempts History Report - Selected Cardholders

\\vss-svr\Geoffrey\5.0\Data\Reports\TrnHis9.rpt

*****AUTO** 3-DIGIT 606
GERALD A BERRY
4948 W GLADYS AVE
CHICAGO IL 60644-5282



UNITED STATES
POSTAL SERVICE ®

Case 1:07-cv-06282

Document 23

Filed 03/27/2008

Page 26 of 28

Registered Mail Dispatch Bill
Truck

Rotary Lock/Seal No: TO COOL'; S D BIL Jacket No:
No: Page No: 1 of 1 Airmail:
Control No: Bulk Count: 0 Wgt.:
CHICAGO P&DC-60607-9997
(Post Office)

REGISTERS

Postmark of
OHARE AMC

Postmark of
OHARE AMC

01/03/2006
Dispatching Office

01/03/2006
Dispatching Office

Article Number	Origin/Destination	Article Number	Origin/Destination
\$BMC NO. 1	60666 606	2 \$BMC NO. 2	60666 606
\$BMC NO. 3.	60666 606		

Bill No.

A.M. Rte. & Fil. No.

Jacket No.

TO COOL'; S D BIL
Rotary Lock/Seal No.

Received
articles described on above
specified bill from dispatching
office named in postmark.

Receiving Clerk

A total of 3 articles
sent by this dispatch

POSTMASTER

(Printed by: G. Berry) Dispatching Clerk

Postmark of

Postmark of

A total of articles
received by this dispatch

POSTMASTER

D Rafter
Receiving Clerk

Receiving Office

Receiving Office

PS Form 3854-A, November 1993

Printed 01/03/2006 3:05 am

Dispatch Site: OHARE AMC



315153.000062

Form ID: 315153.000062

Printed: 01/03/2006 3:05 am

NON - VETERAN PREFERENCE ELIGIBILITY**January 18, 2006****SUBJECT: NOTICE OF REMOVAL****TO: Gerald A. Berry
F.T. Regular Clerk****SSN: 334 62 1669
Pay Location 114**

You are hereby given not less than thirty (30) days advance written notice of your removal from the Postal Service. The reason (s) for this removal action are:

You are charged with **Violating the Last Chance Settlement signed by you on November 18, 2004**, as evidenced by your unscheduled absences on:

01-09-06	8.00hrs. A/L
01-02-06	8.00hrs. AWOL
10-31-05 – 11-04-05	40.00hrs. AWOL

In addition as outlined below, you violated the Last Chance Removal Settlement stipulations.

3. You agreed to maintain satisfactory attendance during the term of this agreement. "Satisfactory attendance" for the purposes of this agreement is defined as no more than three (3) unscheduled absences during any six (6) month period of this agreement. That also means no instances of AWOL. Unscheduled absences are defined for the purposes of this agreement as "any absence not scheduled and approved in advance of your scheduled reporting time and it includes but is not limited to, tardiness, emergency leave (such as emergency annual or sick leave), leave without pay (LWOP) and failure to report/remain as scheduled for overtime work or holiday work."
5. You agree to meet all terms and conditions listed in this settlement for a period of two (2) years from the signing of this settlement.
6. It is agreed by all parties to this agreement that any violation of the terms or conditions of this agreement will result in the re-issuance of a removal. It is further understood that this settlement-agreement constitutes a **Last Chance** for you to correct your attendance problems.

Exh. 6.T H

The following elements of your past record have been reviewed in taking this action:

- 04-23-04 Fourteen (14) day Suspension for Failure to Maintain a Regular Attendance Record.
- 11-05-03 Fourteen (14) day Suspension for Conduct Unbecoming.
- 11-21-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.
- 01-24-02 Seven (7) day Suspension for Failure to Maintain a Regular Attendance Record.
- 01-24-01 Letter of Warning for Failure to Maintain a Regular Attendance Record.

You have the right to file a grievance under the Grievance -Arbitration procedure set forth in Article 15, Section 2 of the National Agreement within 14 days of your receipt of this notice.

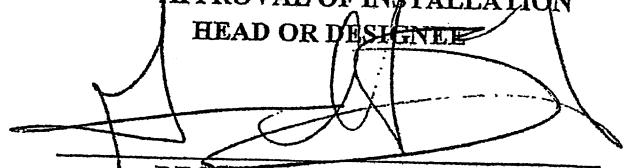
If this action is overturned on appeal, back pay will be allowed, unless otherwise specified in the appropriate award or decision, **ONLY IF YOU HAVE MADE REASONABLE EFFORTS TO OBTAIN OTHER EMPLOYMENT DURING THE RELEVANT NON-WORK PERIOD.** The extent of documentation necessary to support your back pay claim is explained in the ELM, Section 436 (copy attached).



SIGNATURE OF SUPERVISOR
Edwin Muniz
Supervisor Distribution Operations
Tour 1 Leave Control



APPROVAL OF INSTALLATION
HEAD OR DESIGNEE



RECEIVED BY EMPLOYEE

DATE 1/20/05 TIME 4:39